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File No. Civic Guards II 43

Legal Department

BRANCH

Subject:- Rules under ~~the~~ notifications

for the Civic Guards Ordinance 1940

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~~such places as he may direct to~~ office of the R.I.A.
~~appointment~~

The question for consideration is whether the provisions of sub-rule (2) of rule 7 of the City of Bombay Civic Guard Rules are sufficient to enable the Provincial Government to take action as contemplated by the Government of India in their letter of 1st July 1943 at pages 15-16 ante. 52. Under sub-rule (1) of rule 7 a member of the Civic Guard is supplied with a uniform, or an armlet prescribed by the Commissioner of Police, for being worn while on duty. Sub-rule (2) of rule 7 of the City of Bombay Civic Guard Rules (which corresponds to sub-rule (2) of rule 8 of the Bombay District Civic Guard Rules) provides that every person appointed as a member of the Civic Guard shall on ceasing to be a member of the Civic Guard forthwith deliver to the Commissioner of Police or to such person and at such place as he may direct his certificate of appointment and the uniform and the armlet and any other article supplied to him while he was a member of the Civic Guard. Since under this rule a member of the Civic Guard is bound to return the uniform etc. supplied to him no intention of making a gift of those articles to him can be inferred. The uniform or the armlet as the case may be is entrusted to him only for a particular purpose and if he does not return it as required by sub-rule (2) of rule 7 it would be reasonable to infer that he has committed criminal breach of trust in respect of that property within the meaning of section 405 of the Indian penal Code and it would be possible in that case to resort to the provisions of the Criminal Procedure Code as to search and seizure. As pointed out by

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the Government of India a mere threat of resort to the criminal law might in many cases prove successful. In any case the expedient suggested by the Government of India is worth trying.

Id/- P.N.H.
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Remembrancer of Legal Affairs.

U.R. to H.D., No. 5473, dated the 11th August 1948.

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